

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

This matter is before the Court on Defendant Ganiu Kosoko's Motion Requesting Co-Counsel to Perfect Suppress Motion in Preparation for Trial (#251), filed September 21, 2010; Motion to Dismiss Co-Counsel in Preparation for Trial (#256), filed September 28, 2010; and Motion Requesting Defendant to be Moved to Pahrump (#257), filed September 28, 2010.

1. Motion Requesting Co-Counsel (#251)

It is unclear to the Court what Defendant is requesting in his Motion Requesting Co-Counsel to Perfect Suppress Motion in Preparation for Trial (#251). Defendant states that he has had trouble accessing the prison library and his incarceration has impeded his ability to perform legal research. (*Id.*) As a result, Kosoko requests that the Court order assistance from “co-counsel” in order to “level the playing field”. (*Id.*)

Mr. Kosoko has chosen to waive his right to counsel and decided to represent himself *pro se* in this matter. The Court appointed standby counsel to retain familiarity with the case to be ready to step in to represent Defendant if necessary. To the extent that Kosoko is requesting that his standby counsel prepare motions or pleadings on Kosoko's behalf while Kosoko is representing himself in this action, the Court will deny Kosoko's request and again inform Defendant about the role of standby counsel.

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Under the Sixth Amendment, a defendant who elects to proceed *pro se* “must be allowed to control the organization and content of his own defense, to make motions, to argue points of law, to participate in voir dire, to question witnesses, and to address the court and the jury at appropriate points in the trial.” *McKaskle v. Wiggins*, 465 U.S. 168, 174, 104 S.Ct. 944 (1984). The *pro se* defendant “is entitled to preserve actual control over the case he chooses to present to the jury.” *United States v. Mills*, 895 F.2d 897, 902 (2nd Cir. 1990) (quoting *Wiggins*, 465 U.S. at 178-79). Standby counsel will not “participate over the defendant’s objection” or make “or substantially interfere[] with any significant tactical decisions, or to control the questioning of witnesses, or to speak instead of the defendant on any matter of importance”. *Id.* However, standby counsel may assist “the *pro se* defendant in overcoming routine procedural or evidentiary obstacles to the completion of some specific task, such as introducing evidence or objecting to testimony, that the defendant has clearly shown he wishes to complete.” *United States v. McDermott*, 64 F.3d 1448, 1453 (10th Cir. 1995) (quoting *Wiggins*, 465 U.S. at 183). In addition, standby counsel may help to ensure the defendant’s “compliance with basic rules of courtroom protocol and procedure.” *Id.*

It is Mr. Kosoko’s responsibility to represent himself. Standby counsel’s role is to assist Mr. Kosoko in his defense as necessary. To this end, standby counsel shall make available to Mr. Kosoko any and all discovery and defense materials when requested by Mr. Kosoko. As standby counsel for Kosoko, Michael Pandullo will make himself reasonably available to Defendant.

To the extent that Defendant is requesting “co-counsel” or that the Court appoint another attorney to represent Mr. Kosoko while he continues to represent himself in this case, the Court will deny his request. Defendant may exercise his right to represent himself in his defense or he can exercise his right to be represented by counsel. He cannot exercise both rights at once.

However, the Court has continuously advised Mr. Kosoko that it believes it is in his best interest to be represented by an attorney in this case. In the event that Kosoko intended the present motion regarding “co-counsel” as a request for appointment of counsel to represent him in this case, the Court will deny the motion without prejudice to allow Kosoko to refile the request as a motion for appointment of counsel.

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1 **2. Motion to Dismiss Standby Counsel (#256)**

2 Defendant also moves the Court to dismiss his standby counsel because Kosoko does not
3 believe standby counsel has been effective and Defendant claims there has been a breakdown in
4 communication. (#256). The present motion represents Defendant's second request to dismiss his
5 standby counsel. (*See* #177, #256). On July 21, 2010, the Court granted Kosoko's request to
6 remove Michael Sanft who, at the time, was serving as Defendant's standby counsel. (#187). The
7 Court replaced Mr. Sanft with Defendant's current standby counsel, Michael Pandulo, Esq. (*Id.*)
8 Defendant now states that he does not desire to have standby counsel.

9 As discussed above, Defendant is misunderstanding the role of standby counsel. Standby
10 counsel exists to help Defendant with procedural and other court matters when Defendant asks for
11 assistance. As a defendant, representing himself in this case, Mr. Kosoko has control of how he
12 prepares and presents his defense. He also has the responsibility to know all applicable law, rules
13 of procedure, and rules of evidence. Standby counsel exists as a resource to assist Defendant, who
14 is not a lawyer, with presenting his defense when Defendant asks for assistance. Therefore, the
15 Court finds Defendant has not shown good cause to dismiss standby counsel and will deny
16 Defendant's request.

17 **3. Motion to Move Defendant to Pahrump (#257)**

18 Defendant requests that the Court move him from where he is currently housed at North Las
19 Vegas Detention Center to a different institution in Pahrump. (#257). As Defendant has offered no
20 argument, facts or basis for the Court to order him moved to Pahrump, the Court will deny
21 Defendant's request. Accordingly,

22 **IT IS HEREBY ORDERED** that Defendant's Motion Requesting "Co-Counsel" to Perfect
23 Suppress Motion in Preparation for Trial (#251) is **denied without prejudice**.

24 **IT IS FURTHER ORDERED** that Defendant's Motion to Dismiss Co-Counsel in
25 Preparation for Trial (#256) is **denied**.

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IT IS FURTHER ORDERED that Defendant's Motion Requesting Defendant to be Moved to Pahrump (#257) is **denied**.

DATED this 4th day of October, 2010.

George Foley Jr.